# Remarks

Examiner has rejected claims 1-9 under 35 USC § 103 as being unpatentable over Bertin et al. in view of Masuda et al. Reconsideration is requested.

Before referring to the cited references and the arguments raised, it may be helpful to summarize the Applicant's invention. A priority routing service is provided for selected traffic. The service is only applied to data packets which are either: (i) from a predetermined user and destined for a particular customer, or (ii) from a particular customer and destined for the predetermined user. A connectionless network is monitored to determine a congestion point. The congestion point may already exist or it may be a place where congestion is expected to occur. An express route is set up by, for example, reserving bandwidth on certain links of the network. Once the express route has been set up, traffic is inspected to determine whether it is eligible to use the express route, i.e. whether it is (i) from a particular user and destined for a particular customer, or (ii) from a particular customer and destined for a particular user. Only this traffic is diverted onto the express route. It should be noted that the express route is maintained for a period of time.

Referring to the Examiner's arguments, Applicant notes the Examiner's comment that "Bertin does not expressly disclose monitoring network to determine an actual or expected congestion point, where the express route bypasses said congestion point." Applicant agrees. However, Applicant still believes that Bertin fails to properly show other limitations of claim 1.

Once again, in providing support for her rejection, the Examiner has pointed to various passages between column 5 and column 7 of Bertin. These passages have been collated from a number of different prior art techniques (automatic network routing and label swapping at column 5) as well as the invention taught by Bertin.

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The Bertin reference does not properly disclose that at any time these different features have been, or could have been, used together. The only time they have been combined is by the Examiner, in forming this argument, and that is only due to the teaching of the present application. It is respectfully noted that this is an improper basis for such an argument.

Bertin teaches a path selection technique which is specifically for packets without bandwidth reservation (see col. 6, lines 24-26). This is at odds with the technique proposed by the present invention, where an express route (reserved bandwidth) for selected traffic is maintained in response to determining a congestion point.

The Examiner has constructed an argument under 35 USC §103 based on a combination of Bertin and Masuda. The newly cited reference, Masuda, teaches a high speed routing control system in which a form of congestion information is used. Masuda finds a plurality of possible paths and then uses congestion information to help select one of the paths, in an attempt to quickly find an optimum path. Masuda does not provide any kind of priority routing service for selected traffic, since it does not teach any way of identifying data packets which are either from a particular user and destined for a particular customer or from a particular customer and destined for a particular user. Neither does Masuda maintain an express route for carrying the selected traffic since there is no reservation of network resources.

It is stressed that both Bertin and Masuda operate in a manner in which they route traffic according to what they perceive to be the best path at any particular time. An express route is not maintained in any way.

For these reasons a combination of Bertin and Masuda does not teach all of the limitations of claim 1 and so, even if one of ordinary skill in the art were to combine these references, they would still not arrive at all the features of claim 1.

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Claim 8 recites similar features to claim 1 and so is allowable for similar reasons. Claims 2-6 and 9 are allowable at least by virtue of their dependency on claims 1 or 8.
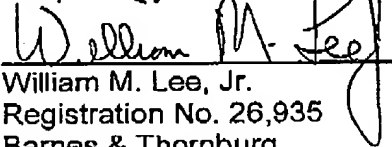
In respect of claim 7, Applicant maintains, for the same reasons as previously, that Bertin does not teach how a network element diverts packets along an express route according to the source address corresponding to a predetermined user. In the new grounds raised by the Examiner, a combination of Bertin and Masuda also does not teach all of the limitations of claim 7.

For the foregoing reasons Applicant respectfully submits that the claims in this application are in condition for allowance. Early issuance of a notice of Allowance is solicited.

This response is being filed within two months of the mailing of the office action.

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Respectfully submitted,

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